

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

ALAN DEATLEY,

Plaintiff,

vs.

ALBERT DEATLEY, et al,

Defendants.

No. CV-04-3082-JLQ

ORDER ON DEFENDANTS'  
MOTION FOR RECONSIDERATION,  
ORDERING RE: FILINGS, AND  
ORDER EXTENDING DISCOVERY  
CUT-OFF DATE

Before the court is the Plaintiff's Motion For Reconsideration of this court's Order Granting Motion To Compel dated September 26, 2005. That Order held that for discovery purposes the responses of Plaintiff's former attorneys concerning alleged original Guaranty and/or Settlement documents were not protected by the attorney/client privilege. To the extent that the Motion For Reconsideration, which is disfavored in federal court, seeks reconsideration of that Order, the Motion For Reconsideration is DENIED, subject to the further orders of this court, *infra*.

Because of the time constraints for the completion of discovery, upon receipt of the filing of the Plaintiff's Motion For Reconsideration, the court immediately downloaded the Motion in the hopes of a forthwith ruling thereon. The Motion For Reconsideration stated in part ". . . contemporaneously with the filing of the instant motion Plaintiff has produced the Subject Communications for an *in camera* inspection . . ." The court searched the electronic filings for such documents which could not be located. Assuming that the documents may have been mailed to the court, the court then

1 involved the court's entire chambers staff and that of the Spokane Clerk's office in a  
2 fruitless effort to discover the *in camera* submittal. Only recently has it been determined  
3 that counsel for the Plaintiff mailed the documents to the undersigned in Yakima,  
4 Washington! The date of the Plaintiff's letter was October 6, 2005 and the letter and  
5 documents were received in Yakima on October 11, 2005. The documents were then  
6 forwarded to the undersigned in his Spokane chambers. While it should not be necessary,  
7 counsel for the Plaintiff are advised that all filings should be by ECF and if mailed, the  
8 mailing address is P. O. Box 1432, Spokane, Washington 99210.

9 Because of the content of the Plaintiff's Motion For Reconsideration, IT IS THE  
10 ORDER of the court that the responsive letters of former counsel for the Plaintiff  
11 concerning alleged original documents are, for discovery purposes, not protected by  
12 attorney/client OR work product privilege. This pre-trial ruling does not constitute a  
13 ruling by this court that Plaintiff's former counsels' responses to inquiries by Plaintiff  
14 and his present attorneys as to documents are admissible at trial. The answer to the  
15 question in the Motion For Reconsideration as to whether production of the responses  
16 constitutes a waiver of the attorney/client privilege by the Plaintiff is obvious. The  
17 responses are being furnished pursuant to this court's Orders and not by reason of any  
18 waiver of claimed privilege by the Plaintiff.

19 Once the responses and redacted responses finally arrived in this court's chambers,  
20 a review thereof reveals that the only redactions pertain to a fee dispute, which, at this  
21 time does not appear to be relevant. Counsel for the Plaintiff shall forthwith furnish the  
22 redacted versions of the responses to counsel for the Defendants.

23 In view of the recent filings on this matter indicating that counsel have expended  
24 many of the expiring discovery days in settlement negotiations, IT IS HEREBY  
25 ORDERED that the discovery cut-off date for all matters in this action shall be extended  
26 to November 15, 2005.

1 In order that no other matters delay this action and compliance with this court's  
2 Orders, the court notes that attorney Powers of Yakima has been participating in this  
3 matter on behalf of Plaintiff Alan Deatley and that he may be conflicted by reason of  
4 prior representation of a Defendant and/or being a witness in this action. If Mr. Powers  
5 is one of the counsel for Plaintiff and if the Defendants contend he should be disqualified,  
6 that matter shall be addressed by appropriate motion forthwith.

7 The Clerk of this court shall enter this Order and forward copies to counsel.

8 **DATED** this 17th day of October 2005.

9  
10 s/ Justin L. Quackenbush  
11 JUSTIN L. QUACKENBUSH  
12 SENIOR UNITED STATES DISTRICT JUDGE  
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